

**ADOPTION OF AN AMENDMENT TO CHAPTER 112
(ZONING) OF THE 1976 CODE OF THE COUNTY OF FAIRFAX, VIRGINIA**

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium, Lobby Level, Government Center Building, 12000 Government Center Parkway, Fairfax, Virginia, on Monday, March 29, 2004, the Board after having first given notice of its intention so to do, in the manner prescribed by law, adopted an amendment to Chapter 112 (Zoning) of the 1976 Code of the County of Fairfax, Virginia, said amendment so adopted being in the words and figures following, to-wit:

**BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF FAIRFAX COUNTY,
VIRGINIA:**

Amend Chapter 112 (Zoning Ordinance), as follows:

Amend Article 2, General Regulations, Part 3, Interpretation of District Regulations, as follows:

- Amend Sect. 2-303, Special Permit Uses, by revising Par. 1 to read as follows:

1. No use of a structure or land that is designated as a special permit use in any zoning district shall hereafter be established, and no existing use shall hereafter be changed to another use that is designated as a special permit use in such district, unless a special permit has been approved by the BZA and the use has been established in accordance with the provisions of Article 8.

- Amend Sect. 2-304, Special Exception Uses, by revising Par. 1 to read as follows:

1. No use of a structure or land that is designated as a special exception use in any zoning district shall hereafter be established, and no existing use shall hereafter be changed to another use that is designated as a special exception use in such district, unless a special exception has been approved by the Board and the use has been established in accordance with the provisions of Article 9.

Amend Article 3, Residential Districts, as follows:

- Amend the R-P Residential-Preservation District, Sect. 3P03, Special Permit Uses, by deleting Par. 5D and relettering the subsequent subparagraphs accordingly.

- Amend the R-E, R-1, R-2, R-3, R-4, R-5, R-8, R-12, R-16, R-20, R-30 and R-MHP Districts, Special Permit Use Sections, by revising Par. 7 of Sections 3-E03 and 3-103, by revising Par. 6 of Sections 3-203, 3-303, 3-403, and by revising Par. 4 of Sections 3-503, 3-803, 3-1203, 3-1603, 3-2003, 3-3003 and 3-M03, to read as follows:

4., 6. or 7. Group 8 – Temporary Uses, limited to:

- A. Carnival, circus, festival, fair, horse show, dog show, steeplechase, music festival, turkey shoot, sale of Christmas trees or other seasonal commodities and other similar activities
- B. Construction material yards accessory to a construction project
- C. Contractors' offices and equipment sheds to include trailers accessory and adjacent to an active construction project
- D. Subdivision and apartment sales and rental offices
- E. Temporary dwellings or mobile homes

- F. Temporary farmers' markets
- G. Temporary mobile and land based telecommunications testing facility

Amend Article 4, Commercial Districts, Part 9, C-9 Super-Regional Commercial Districts, Sect. 4-902, Permitted Uses, by revising Paragraphs 16 and 17 to read as follows:

- 16. New vehicle storage, limited by the provisions of Sect. 905 below.
- 17. Offices, limited by the provisions of Sect. 905 below.

Amend Article 8, Special Permits, as follows:

- **Amend Part 0, General Provisions, Sect. 8-004, Status of Special Permit Uses, by revising Par. 1 to read as follows:**
 - 1. Once a special permit is approved, such use may only be established in accordance with such approval and any site plan, subdivision plat, Building Permit, Residential or Non-Residential Use Permit hereafter submitted for the development or use of the property in accordance with the special permit shall be in substantial conformance with the approved special permit, and no development or use shall be approved by any County official in absence of such conformance.
- **Amend Part 6, Group 6 Outdoor Recreation Uses, Sect. 8-612, Additional Standards for Zoological Parks, by revising Paragraphs 4 and 5 to read as follows:**
 - 4. The Animal Services Division of the Police Department shall review the operation of the zoological park on a quarterly basis and shall have the right to conduct unannounced inspections of the facility during daylight hours.
 - 5. The keeping of all animals including wild or exotic animals as defined in Chapter 41 of the Code may be permitted with the approval of the Animal Services Division of the Police Department, upon a determination that the animal does not pose a risk to public health, safety and welfare and that there will be adequate feed and water, adequate shelter, adequate space in the primary enclosure for the particular type of animal depending upon its age, size and weight and adequate veterinary care.
- **Amend Part 8, Group 8 Temporary Uses, as follows:**

- **Amend Sect. 8-802, Districts in Which Group 8 Uses May be Located, by revising the Residential Entries to read as follows:**

Group 8 uses may be allowed by special permit in the following districts:

R-A District: Limited to uses 1 and 8

R-P District: Limited to uses 1, 2, 3, 5, 6 and 8

All other R Districts: Limited to uses 1, 2, 3, 5, 6, 7 and 8

- **Amend Sect. 8-804, Standards and Time Limits for Carnivals and Other Uses Set Forth in Par. 1 of Sect. 801 Above, by revising Paragraphs 2 and 7 to read as follows:**

2. All permitted activities shall be sponsored by a volunteer fire company, local chamber of commerce, veterans' organization, service club, civic organization, place of worship or religious organization, sports or hunt club, charitable, education or nonprofit organization or recognized chapter thereof whose principal administrative offices are located within the County.
7. The Zoning Administrator shall notify the Animal Services Division of the Police Department upon receipt of an application for a temporary special permit involving the display or exhibition of animals. In addition to the requirements of this Ordinance, the owners and/or operators of any carnival, circus, side show, dog and pony show, trained animal show, traveling animal exhibition, menagerie or any other show, exhibition or performance similar thereto, shall procure a County license in accordance with the provisions of Chapter 25 of the Code, and a permit in accordance with the provisions of Chapter 41 of The Code.

- **Amend Part 9, Group 9 Uses Requiring Special Regulation, as follows:**

- **Amend Sect. 8-904, Additional Standards for Adult Book Stores and Adult Mini Motion Picture Theatres, by revising Par. 3 to read as follows:**

3. Such a use shall not be located closer than 1000 feet to any place of worship or school.

- **Amend Sect. 8-906, Additional Standards for Commercial Nudity Establishments, by revising Par. 3 to read as follows:**

3. Such a use shall not be located closer than 1000 feet to any place of worship or school.

Amend Article 9, Special Exceptions, as follows:

- **Amend Part 0, General Provisions, Sect. 9-004, Status of Special Exception Uses, by revising Par. 1 to read as follows:**

1. Once a special exception has been approved, such use may only be established in accordance with such approval and any site plan, subdivision plat, Building Permit, Residential or Non-Residential Use Permit hereafter submitted for the development or use of the property in accordance with the special exception shall be in substantial conformance with the approved special exception, and no development or use shall be approved by any County official in the absence of such conformance.

- **Amend Part 5, Category 5 Commercial and Industrial Uses of Special Impact, Sect. 9-508, Additional Standards for Drug Paraphernalia Establishments, by revising Par. 2 to read as follows:**

2. Such establishment shall not be located within 1000 feet of the property line of a park, place of worship, library, public school, school of general education, child care center or home child care facility.

Amend Article 10, Accessory Uses, Accessory Service Uses and Home Occupations, Part 2, Accessory Service Uses, Sect. 10-203, Use Limitations, by revising Par. 3 to read as follows:

3. Accessory service uses in the C-4 District may be located in a freestanding building separate from the principal use, and an eating establishment in the I-1 through I-5 Districts may also be located in a freestanding building; but such freestanding buildings shall be allowed only in those locations shown on an approved development plan or site plan for an office facility or industrial park.

Those accessory service uses set forth in Par. 2E of Sect. 202 above, which by their nature must be conducted outside a building, shall be located on the same lot as the principal use.

Amend Article 11, Off-Street Parking and Loading, Private Streets, Part 1, Off-Street Parking, as follows:

- **Amend Sect. 11-102, General Provisions, by revising Par. 4 to read as follows:**

4. Off-street parking spaces may serve two (2) or more uses; however, in such case, the total number of such spaces must equal the sum of spaces required for each separate use except:
 - A. As may be permitted under Paragraphs 5, 22, 26 and 27 below and Par. 3 of Sect. 106 below;
or
 - B. That the Board may, subject to conditions it deems appropriate, reduce the total number of parking spaces required by the strict application of this Part when the applicant has demonstrated to the Board's satisfaction that fewer spaces than those required by this Part will adequately serve two (2) or more uses by reason of the hourly parking accumulation

characteristics of such uses and such reduction will not adversely affect the site or the adjacent area.

Notwithstanding the above, required off-street parking spaces and their appurtenant aisles and driveways which are not fully utilized during the weekday may be used for a public commuter park-and-ride lot when such lot is established and operated in accordance with a public commuter park-and-ride lot agreement approved by the Board.

In addition, for a use where the minimum number of required parking spaces is provided on site in accordance with this Part, but additional off-site parking may be desired, the Director may, subject to conditions the Director deems appropriate, approve the use of a portion of an adjacent site's required parking spaces, when the applicant has demonstrated to the Director's satisfaction that the use of such spaces on the adjacent site will not adversely affect such site or the adjacent area by reason of the hourly parking accumulation characteristics of such uses.

- **Amend Sect. 11-104, Minimum Required Spaces for Commercial and Related Uses, by revising Par. 6 to read as follows:**

6. Drive-Through Pharmacy:

As required in Par. 20 below, plus five (5) stacking spaces in front of each drive-through window

Amend Article 14, Performance Standards, Part 9, Outdoor Lighting Standards, as follows:

- **Amend Sect. 14-902, Applicability and General Provisions, by revising Par. 2G to read as follows:**

2. Except as provided in Sections 904 and 905 below, all outdoor lighting fixtures shall comply with the following:

G. Lighting used for construction sites shall consist of the following:

- (1) All construction site lighting, with the exception of lighting that is used to illuminate the interiors of buildings under construction which is provided for in the following paragraph, shall use full cut-off or directionally shielded fixtures that are aimed and controlled so the directed light shall be substantially confined to the object intended to be illuminated. Directional control shields shall be used where necessary to limit stray light.
- (2) Frosted light bulbs shall be used to light the ten (10) foot outermost perimeter area of the interiors of the buildings under construction which contain five (5) or more stories.

For the purposes of this provision, a building is no longer considered under construction once exterior walls and windows are installed and permanent lighting replaces temporary lighting as the primary source of light for the building.

- **Amend Sect. 14-903, Lighting Standards for Certain Commercial Uses, by revising the introductory paragraph of Par. 4 to read as follows:**

In additional to Sect. 902 above, outdoor lighting fixtures associated with service stations, service station/mini-marts and vehicle sale, rental and ancillary service establishments shall be subject to the following:

4. A photometric plan shall be prepared by a lighting professional that is certified by the National Council on Qualifications for the Lighting Professions (NCQLP), or a State licensed professional engineer, architect, landscape architect or land surveyor and shall contain the following information:
 - A. Location and limits of the canopy or outdoor display area at a scale of not less than 1 inch equals fifty feet (1'=50').
 - B. Location and height of all canopy lighting for service stations and service station/mini-marts and all pole, building or ground mounted lighting fixtures for an outdoor display area at a vehicle sale, rental and ancillary service establishments.
 - C. A photometric diagram showing predicted maintained lighting levels produced by the proposed lighting fixture facilities.

- **Amend Sect. 14-904, Outdoor Recreation/Sports Facility Lighting Requirements, by revising the introductory paragraph of Par. 2 to read as follows:**

When an outdoor recreation/sports facility has illuminated playing fields/courts that, individually or cumulatively, exceed 10,000 square feet in area, and/or associated light poles that exceed 20 feet in height, the playing fields/courts shall be subject to the provisions of this Section. Other components of such facilities, to include, but not limited to, parking lots, administrative offices, restrooms, ticket sales, concession stands and bleachers or other spectator viewing areas, shall not be subject to this Section, but shall be subject to the provisions of Sect. 902 above. An outdoor recreation/sports facility that has illuminated playing fields/courts, either individually or cumulatively, that are 10,000 square feet or less in area and/or contain associated light poles 20 feet or less in height, shall not be subject to this Section. For the purposes of this Section, the perimeter area defined in Par. 2B below shall be included in the area of the playing field/court.

2. A sports illumination plan shall be prepared by a lighting professional that is certified by the National Council on Qualifications for the Lighting Professions (NCQLP), or a State licensed professional engineer, architect, landscape architect or land surveyor and shall contain the following information:

- A. The boundaries, dimensions and total land area of the outdoor recreation/sports facility property at a designated scale of not less than one inch equals fifty feet (1"=50'). For proposed uses on large tracts of land where the lighted playing field/court occupies a small portion of the site, the boundaries, dimensions and total land area of just the lighted playing field/court with perimeter areas, as required by Par. 2B below, shall be provided, at a designated scale of not less than one inch equals fifty feet (1"=50'), with a graphic that depicts the location of the fields/courts in relation to the perimeter lot lines of the entire property.
- B. Location and limits of the playing fields/courts, to include a perimeter area. For baseball/softball fields, the perimeter area shall extend thirty (30) feet in a direction perpendicular to the foul lines and away from the field. The perimeter area for rectangular playing fields, such as soccer, football, lacrosse and field hockey, shall extend twenty (20) feet from the side lines and thirty (30) feet from the end lines. The perimeter area for all other playing fields/courts shall extend ten (10) feet beyond the playing field/court boundary.
- C. Location, height and illustration of each style of all pole, building, and ground mounted lighting fixtures for the playing field/court.
- D. A photometric diagram showing predicted maintained lighting levels for the proposed playing field/court and associated perimeter area lighting.

Amend Article 18, Administration, Amendments, Violations and Penalties, Part 5, Environmental Assessment/Impact Statements, by revising the note to read as follows:

Note: Provisions are not presented for an environmental assessment/impact statement at this time, and until such provisions have been adopted by the Board of Supervisors, the submission of an assessment/impact statement as set forth in Par. 8 of Sect. 202 above will not be required.

Amend Article 19, Boards, Commissions, Committees, as follows:

- **Amend Part 2, Board of Zoning Appeals, Sect. 19-209, Powers and Duties, by revising Par. 1 to read as follows:**

The BZA shall have the following powers and duties:

1. To hear and decide appeals from any order, requirement, decision, interpretation or determination made by the Zoning Administrator or any other administrative officer in the administration or enforcement of this Ordinance, all as provided in Part 3 of Article 18.

- **Amend Part 6, Geotechnical Review Board, as follows:**

- **Amend Sect. 19-603, Membership, by revising Par. 3 to read as follows:**

3. Members of the GRB shall be compensated at the rate determined by the Board of Supervisors for the work performed in connection with the review of projects assigned by the Director of Public Works and Environmental Services.

- **Amend Sect. 19-607, Powers and Duties, to read as follows:**

The GRB shall review reports, plans and specifications submitted to the Director of Public Works and Environmental Services in accordance with the provisions of Article 17 of this Ordinance, the Public Facilities Manual, and Chapters 101 and 107 of the Code. The GRB shall recommend approval, approval with modifications or disapproval of said plans and specifications, which recommendations shall not be binding upon the Director of Public Works and Environmental Services. Its review shall be limited to geotechnical aspects and foundation design.

Amend Article 20, Ordinance Structure, Interpretation and Definitions, Part 3, Definitions, by deleting the definition of Building Under Construction and by revising the definition of footcandle to read as follows:

FOOTCANDLE: A measure of light falling on a surface. One (1) footcandle is equal to the amount of light generated by one (1) candle shining on one (1) square foot surface located one (1) foot away. Footcandle measurements shall be made with a photometric light meter.

Amend Appendix 7, Commercial Revitalization Districts, Parts 1, 2, 3, 4 and 5, Annandale Commercial Revitalization District, Bailey's Crossroads/Seven Corners Commercial Revitalization District, McLean Commercial Revitalization District, Richmond Highway Commercial Revitalization District and Springfield Commercial Revitalization District, as follows:

- **Amend Sections A7-107, A7-207, A7-307, A7-407, A7-507, Bulk Regulations, by revising Par. 1 to read as follows:**

1. Maximum building height: As specified in the underlying zoning district regulations, except that for land zoned C-6 or C-8, a maximum height of fifty (50) feet shall be allowed by right. In addition, where an increase in the maximum building height is allowed in the underlying zoning district regulations by special exception, such may be approved by the Board in accordance with the provisions of Sect. 9-622.

- **Amend Sections A7-109, A7-209, A7-309, A7-409 and A7-509, Additional Provisions, by revising Par. 5B to read as follows:**

5. The landscaping and screening requirements of Article 13 shall apply, except as set forth below. When the following provisions provide for a determination with regard to the feasibility of meeting the requirements on a lot, such determination may be made by either the Director in the approval of a minor site plan, or the Board in accordance with the provisions of Sect. 9-622.

B. The peripheral parking lot landscaping requirements of Sect. 13-202 shall apply as follows:

- (1) For expansions or enlargements of existing developments, the peripheral parking lot landscaping requirements of Par. 1 of Sect. 13-202 concerning when a property line abuts land not in the right-of-way of a street shall not apply.
- (2) For redevelopments or new developments, the provisions of Par. 1 of Sect. 13-202 shall be applicable. However, where there are landscaping or design provisions in the adopted comprehensive plan which recommend a planting strip or other streetscape treatment with the same or lesser width or different plant materials than those required by Sect. 13-202, then the provisions of the adopted comprehensive plan shall apply.
- (3) For expansions or enlargements of existing developments, redevelopments and new developments, the peripheral parking lot landscaping requirements of Par. 2 of Sect. 13-202 concerning when the property line abuts the right-of-way of a street shall not apply and the following shall be required:
 - (a) A landscaping strip ten (10) feet in width, which shall not include any sidewalk, trail or parallel utility easement, shall be located on the lot where it abuts a street right-of-way line.
 - (b) If there are no existing or proposed overhead utility lines, there shall be at least one (1) large deciduous tree planted in the landscaping strip for each thirty (30) feet of length; however, this shall not be construed as requiring the planting of such trees at a spacing of one (1) tree every thirty (30) feet on center. If there are overhead utility lines, there shall be at least one (1) small to medium deciduous tree planted in the landscaping strip for every twenty-five (25) feet of length; however, this shall not be construed as requiring the planting of such trees at a spacing of one (1) tree every twenty-five (25) feet on center. Trees planted in a landscaping strip beneath overhead utility lines shall be of a shape and character so as not to interfere with the utility lines.
 - (c) All trees shall be two and one-half to three inches (2 ½ to 3") in caliper at the time of planting.

However, where there are landscaping or design provisions in the adopted comprehensive plan which recommend a planting strip or other streetscape treatment with the same or lesser width or different plant materials than set forth above, the provisions of the adopted comprehensive plan shall apply.

The above requirements may be modified or waived for expansions or enlargements of existing developments when it is determined that it is not feasible to meet these requirements on the lot.

This amendment shall become effective on March 30, 2004 at 12:01 a.m.

GIVEN under my hand this 30th day of March, 2004.

NANCY VEHRS
Clerk to the Board of Supervisors